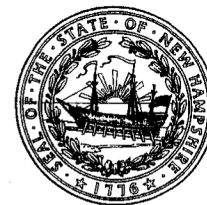




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

April 26, 2005

Ralph Porter
161 Union Square
Milford, NH 03055

Re: Docket No. AF 04-075 Motion to Accept Settlement Agreement

Dear Mr. Porter:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on April 21, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael P. Nolin,
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
James Martin, DES Public Information Officer
Lynn A. Woodard, DES WMDT
Thomas R. Beaulieu, DES WMD
Tammy Calligandes, DES WMD

Ralph Porter
161 Union Square
Milford, NH 03055

**Administrative Fine
No. AF 04-075**

Re: Ralph's Global, Milford, NH
UST ID # 0-113489

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and Ralph Porter, parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Ralph Porter is the registered owner of five underground storage tank ("UST") systems at Ralph's Global facility ("the Facility"), further identified as UST #0-113489, located on real property at 161 Union Square, Milford, NH ("the Property").
3. On September 9, 2004, the Division issued Notice of Proposed Administrative Fine No. AF 04-075 ("the Notice") to Ralph Porter, seeking fines totaling \$7,000 for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
4. Specifically, the Notice cited Ralph Porter for violating Env-Wm 1401.30(a) by failing to conduct release detection for all of the piping systems at the three gasoline USTs. Pursuant to Env-C 607.03(j) the Division sought a fine of \$3,000.
5. The Notice further cited Ralph Porter for violating Env-Wm 1401.31 (a) by failing to maintain leak monitoring equipment in good working order at all times to continuously perform their original design function for the three gasoline UST's and by failing to perform the annual test for proper operation. Pursuant to Env-C 607.05(d) the Division sought a fine of \$3,000.
6. The Notice further cited Ralph Porter for violating Env-Wm 1401.33 for failing to install corrosion protection for the piping on the #2 fuel oil UST. Pursuant to Env-C 607.03 (f) the Division sought a fine of \$1,000.
7. In order to settle this matter, the Division and Ralph Porter met on September 30, 2004 and agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.

8. Of the proposed fine in the amount of \$7,000, 20% or \$1,400 shall be suspended due to the Ralph Porter's history of compliance at this facility. An additional 20% or \$1,400 shall be suspended due to Ralph Porter's good faith effort to comply with the applicable law. An additional 20% or \$1,400 shall be suspended due to the Ralph Porter's small business status.

9. The suspended portion of the proposed fine, in the amount of \$4,200 is contingent on Ralph Porter maintaining the subject facility in compliance with New Hampshire Administrative Rules Env-Wm 1401 for a period of two years from the date of the execution of this document. If Ralph Porter fails to maintain compliance during the two-year period, the suspended portion of the proposed fine in the amount of \$4,200 shall become due and payable immediately. If Ralph Porter maintains compliance for the prescribed two-year period, the suspended portion of the fines shall be waived.

10. Ralph Porter agrees to pay the remaining \$2,800 upon execution of this Agreement by Ralph Porter.

11. Payment under Paragraph #10, and any payment that becomes due pursuant to Paragraph #9 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

12. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

13. By executing this Agreement, Ralph Porter waives his right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

14. The effective date of this Agreement will be the date on which it is signed by Ralph Porter, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

15. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

April 1 - 2005
Date

Respectfully submitted,
Mr. Ralph Porter

[Signature]
Ralph Porter, Owner

4/21/05
Date

DES Waste Management Division

[Signature]
Anthony [illegible], P.E. Director

This Motion to Accept Settlement agreement is granted this 21st day of APRIL, 2005.

[Signature]
Michael J. Nolin, Commissioner
Department of Environmental Services